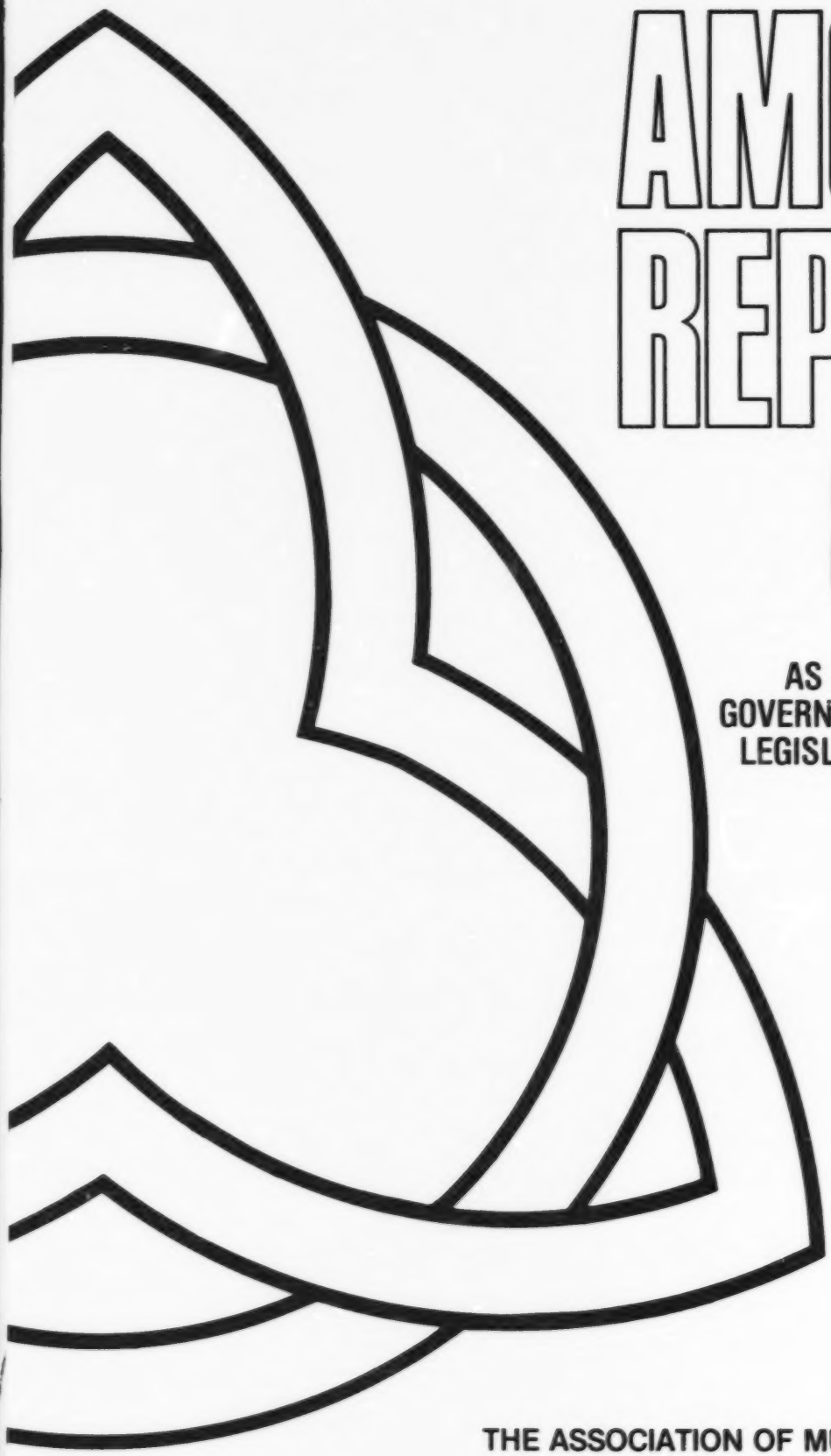

AMO REPORTS 82-20

RESPONSE TO BILL 159 AS REVISED BY THE GENERAL GOVERNMENT COMMITTEE OF THE LEGISLATURE BETWEEN APRIL 28 and JULY 7, 1982

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
SEPTEMBER 1982

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Association of Municipalities of Ontario, a non-partisan voluntary organization, is united to promote the values of the municipal government system and the status of the municipal level of government as a vital and essential component of the total intergovernmental framework of Ontario and Canada.

The Association acts as the collective voice of Ontario's municipal governments and is organized to accomplish through cooperation and coordination, what the majority have neither the time nor the resources to do individually.

The Association represents some six hundred (600) municipal governments throughout Ontario. The governing body is composed of some eighty (80) municipal elected and appointed officials, who in turn represent a wide-range of municipal government interest.

The following sections and affiliated municipal professional associations form an important part of the Association's structure and therefore, play an important part in its activities in terms of the Board of Directors, program and policy development:

Association Sections:

* County and Regional Section
* Large Urban Section
* Northern Ontario Section (FONOM/NOMA)
* Rural (ROMA) Section
* Organization of Small Urban Municipalities Section

Association Affiliates:

* Association of Municipal Clerks and Treasurers of Ontario
* Association of Municipal Tax Collectors of Ontario
* Municipal Engineers Association
* Ontario Municipal Administrators Association
* Ontario Municipal Personnel Association
* Ontario Municipal Social Services Association
* Society of Directors of Municipal Recreation of Ontario

To the Municipal Clerk:

Please circulate this Report to the members of council and to the staff of your municipality. Additional copies are available at $2.50 each from the Publications Centre, Association of Municipalities of Ontario, 100 University Avenue, Suite 902, Toronto, Ontario M5J 1V6

TABLE OF CONTENTS

		PAGE
1.	Introduction	1
2.	AMO Concerns	1
	2.1 Section 2	1
	2.2 Section 4	2
	2.3 Public Meetings	2
	2.4 Section 17	2
	2.5 Section 34	3
	2.6 Section 39	4
	2.7 Sign By-Laws	4
	2.8 Section 40	5
	2.9 Section 41	5
	2.10 Division of Land by Will	6
	2.11 Section 61	7
3.	Points of Clarification	7
	3.1 Sections 9 and 10	7
	3.2 Subsection 34(9)(b)	8
	3.3 Section 40(2)	8
	3.4 Section 51	8

SUMMARY OF RECOMMENDATIONS

"AMO Reports 82-20" was presented to the General Government Committee of the Legislature on September 10, 1982.

AMO RESPONSE TO BILL 159 AS REVISED BY THE GENERAL GOVERNMENT COMMITTEE BETWEEN APRIL 28 and JULY 7, 1982

1. Introduction

The Association in responding to Bill 159 - An Act to Revise the Planning Act voiced many concerns and it has been encouraged by the amendments which have been carried by the Standing Committee that recognize these concerns.

In responding to the revised Bill, the Association will stress only those areas where it feels changes are still necessary in order to improve the municipal planning system in Ontario. Except where noted AMO continues to support the positions which it adopted in AMO Reports 82-2: AMO Submission to the Standing Committee on General Government on Bill 159 - An Act to Revise the Planning Act.

2. AMO Comments

Although Bill 159, as revised, does address many of the Association's major concerns there remain some basic differences between the position of the Association and that proposed in the Bill.

2.1 Section 2

The most significant area of difference is "provincial interest". The Association does not agree with the proposal put forth in Bill 159 that would allow the Provincial Government to intervene in the municipal planning process based on "provincial interest" which has not been defined. The Association believes that intervention, by the Minister or the Provincial Government, should occur only in those cases where a provincial policy statement, formulated in consultation with municipalities, which has undergone municipal circulation and review and which has received Cabinet approval, is being contravened.

Therefore AMO recommends:

1. That Section 2 of Bill 159, as revised, be deleted.

Provincial interest is suitably defined through the process outlined in Section 3 of Bill 159.

2.2 Section 4

Another significant concern of AMO's which has not been addressed in Bill 159, as revised, is the relationshp between the delegation of the Minister's authority with respect to planning matters and the strengthening of local autonomy. If the Provincial Government is serious about achieving its goal to increase local autonomy relative to the planning function the criteria for delegation of the Minister's authority must be included in the Act. The formulation of this eligibility criteria must be done in consultation with the Association. Once these eligibility criteria have been established the delegation of this authority must be automatic, when requested by a municipality that meets the criteria.

Therefore AMO recommends:

2. That Section 4 be amended to include the criteria for delegation.

2.3 Public Meetings

In its response to the Standing Committee, the Association requested that council be authorized to delegate the task of holding any required public meetings. The revised Bill does not clearly permit council to delegate this authority.

The Association recommends:

3. That Bill 159 be amended, to clearly provide that public meetings required by the Act can be held by an advisory committee established by by-law.

2.4 Section 17

As a result of a resolution dealt with in a general session at the Association's Annual Meeting in August, the following policy was adopted:

> "All municipalities shall have an official plan that contains clearly stated policies on which planning decisions should be based. Municipal planning should address social, economic, environmental and physical factors, to the degree required by local circumstances."

Section 17, subsection (2) states in part:

> "The council shall ensure that in the course of the preparation of the plan adequate information is made available to enable the public to understand the purpose and effect of the proposed plan ..."

The Association submits that the wording used in this section of the Bill is such that it could be used to unnecessarily delay the approval of official plans.

The Association recommends:

4. That municipalities be required to make all background information and studies available to the public as a means of providing information as to the purpose and effect of a plan.

Subsection 17(10) of Bill 159 included a thirty day time period within which requests for referral of official plans or parts of plans had to be submitted to the Minister. The corresponding subsection, 17(11), in the revised Bill 159 does not place any such time limit on filing a request for referral.

The Association recommends:

5. The retention in Bill 159, of a time period within which requests for referrals of official plans or parts thereof may be submitted to the Minister.

This would help to ensure that all planning matters are acted upon without undue delay.

2.5 Section 34

The requirement of the council in subsection 34(2) to ensure the availability of adequate information to allow people to understand the purpose and effect of a by-law should be dealt with in the same manner as suggested under Section 17.

The Association recommends:

6. That Section 34(1)4 be amended by the addition of the term "external design" to permit municipalities to regulate the external features of structures through the zoning process.

7. That the word "minimum" be deleted in the third last line of subsection 34(1)(4).

Section 34 of the Bill, in so much as it deals with zoning, does not address the question of replacement of non-conforming uses. Many municipalities in Ontario have zoning by-laws which permit the re-establishment of non-conforming uses. Bill 159 may create a situation where the issuing of building permits in these cases may be open to dispute. Although this matter was not addressed in the original AMO position paper the Association encourages the Provincial Government to take this opportunity to clarify this situation.

Section 34(31) requires that all appeals be finally disposed of before any part of a by-law comes into force. This could result in a comprehensive zoning by-law being delayed because of an appeal on a very specific and possibly minor aspect of the by-law.

The Association recommends:

8. That Section 34(31) be amended to permit those sections of a zoning by-law to which there are no objections to come into force and take effect.

This would promote timely decision-making and a positive attitude towards the planning function at the local level.

2.6 Section 39

Subsection 39(3) details how funds collected by the municipality under this section are to be used. It appears to limit their use to the provision of parking facilities.

The Association recommends:

9. That these funds be eligible for use for the improvement of vehicular and pedestrian access and control in and around a parking facility.

2.7 Sign By-Laws

The Association acknowledges the removal of the sign by-law provisions from the revised version of Bill 159. Bill 194: An Act to amend certain Acts in respect of Planning and related Matters would remove the sign by-law provisions from the Municipal Act.

The result would be that signs would be regulated through the zoning process. Neither the sign industry nor the Association envisaged such a cumbersome mechanism for the control and regulation of signs.

The provisions in the Municipal Act, which were enacted approximately ten years ago and which have proven to be effective, are being abolished. Municipalities will be forced to utilize a cumbersome mechanism that will be frustrating for both the sign industry and municipalities.

Therefore AMO recommends:

10. That the provisions in Bill 159 (Second Reading) related to sign by-laws be retained.

2.8 Section 40

The Association seeks clarification with respect to Section 40 (8). Is the inclusion of a policy statement in the Official Plan concerning highway widenings sufficient to allow municipalities to require such widenings in site plan control agreements? If this is not the case, the Association asks that the appropriate amendments be made to this subsection to reflect this suggestion.

Subsection 40(9) authorizes counties, regions, metropolitan and district municipalities to become involved, to a very limited extent, in the site plan control process. The Association is concerned with the narrow scope of this clause. The diverse nature of the counties and regions within the Province and the diversity in the services which they are responsible for providing dictates that they must be given broader access to this planning tool.

The Association recommends:

11. That this section be further amended to permit upper-tier municipalities to utilize site plan control to address those matters over which they have been given responsibility, and which may be appropriately addressed under site plan control.

2.9 Section 41

The Association remains committed to its position with respect to parkland dedication, as stated in its initial response to Bill 159:

> "The Association is concerned that, by stipulating in the legislation a maximum percentage of parkland which may be required from a developer, individual municipalities would not have the flexibility to address their individual parkland needs. The Association recommends that municipalities be allowed to determine their own parkland dedication standards and that these be established in their official plan. In

situations where the municipality has not adopted an official plan as of yet, the legislation should permit the municipality to require a maximum of five percent parklands."

(Appendix to "AMO REPORTS 82-2" - Clause by Clause review of Bill 159: An Act to Revise the Planning Act; March, 1982; page 78)

2.10 Division of Land by Will

Subsection 50(20) of Bill 159 made the subdivision of property in a will subject to the Planning Act. This subsection has been removed from the Bill as revised. This will create numerous frustrating situations for municipalities as well as the heirs of such estates.

While a will would, if properly drawn, vest portions of the estate with particular heirs, it is unlikely that such vested property would comply with the requirements of the local zoning by-law. This would mean that the heirs to such properties would not be allowed to build on the land.

The use of wills to vest property could lead to strip development, the fragmentation of viable farmland and indeed, the undermining of provincial policies and strategies.

Therefore, AMO recommends:

12. That use of wills to subdivide property be made subject to the Planning Act.

2.11 Section 61

The Association submits that all Ontario Hydro undertakings, which would not be subject to the provision of Bill 159, as presently drafted, should be made subject to the provisions in the new Act if they are exempted from the Environmental Assessment Act.

Therefore, the Association recommends:

13. That the word "approved" be deleted from subsection 61(2) and that the words "a hearing is held" be added in its place.

3. Points of Clarification

The Association is requesting that the following sections be clarified to promote a greater understanding of the legislation.

3.1 Sections 9 and 10

In the situations described in Sections 9 and 10 where the Minister is authorized to establish a planning area, the Association recommends that discussion take place with affected municipalities prior to the Minister taking such action.

Similarly, if the Minister wishes to dissolve or alter a planning area, discussions with the municipalities involved and with the planning board for the planning area should be required prior to any action being taken. Section 2, subsection (8) of the Planning Act (R.S.O. 1980) authorizes the Minister to dissolve or alter the boundaries of a planning area. There is no corresponding clause authorizing the Minister to do so under Bill 159. The Association would recommend that such a clause be added to the Bill provided there is consultation with affected municipalities prior to any action being taken by the Minister.

3.2 Subsection 34(9)(b)

The corresponding section in the Planning Act (R.S.O. 1980), 39(8)(b) provides for a commencement date within two years of the date of the passing of the by-law and a completion date within a reasonable time after commencement. The proposed wording in Bill 159, as revised, relies solely on the provisions of the Building Code Act. We have been advised by those involved with the day to day administration of such matters at the municipal level that it is important to retain the time periods currently specified in the Act.

3.3 Secton 40(2)

Subsection 40(2) of Bill 159, as revised, states that an area may be shown on a schedule or described in an official plan as a site plan control area. This would require a municipality to indicate specific areas which would be subject to site plan control and that to change or add to these areas would require an official plan amendment.

The Association is opposed to this provision and would suggest that the provision in Bill 159 be retained.

3.4 Section 51

The Association is unable to determine the relevance of Section 51 and seeks clarification as to the rationale for its inclusion.

SUMMARY OF RECOMMENDATIONS

The Association recommends:

1. That Section 2 of Bill 159, as revised, be deleted.

2. That Section 4 be amended to include the criteria for delegation.

3. That Bill 159 be amended, to clearly provide that public meetings required by the Act can be held by an advisory committee established by by-law.

4. That municipalities be required to make all background information and studies available to the public as a means of providing information as to the purpose and effect of a plan.

5. The retention in Bill 159, of a time period within which requests for referrals of official plans or parts thereof may be submitted to the Minister.

6. That Section 34(1)4 be amended by the addition of the term "external design" to permit municipalities to regulate the external features of structures through the zoning process.

7. That the word "minimum" be deleted in the third last line of subsection 34(1)(4).

8. That Section 34(31) be amended to permit those sections of a zoning by-law to which there are no objections to come into force and take effect.

9. That these funds be eligible for use for the improvement of vehicular and pedestrian access and control in and around a parking facility.

10. That the provisions in Bill 159 (Second Reading) related to sign by-laws be retained.

11. That this section be further amended to permit upper-tier municipalities to utilize site plan control to address those matters over which they have been given responsibility, and which may be appropriately addressed under site plan control.

12. That use of wills to subdivide property be made subject to the Planning Act.

13. That the word "approved" be deleted from subsection 61(2) and that the words "a hearing is held" be added in its place.

PUBLICATIONS ISSUED IN THE "AMO REPORTS" SERIES

1. 1980 Guidelines for Municipal Bargaining
2. Assessment Review and Appeal Procedures
3. Response to the Children's Research Information Task Force Report
4. The Status of Public Swimming Pools in Ontario
5. Child Abuse
6. Response to Bill 127--An Act To Revise The Pits and Quarries Control Act, 1971
7. Response to the Provincial Announcement of 1980 Transfer Payments to Municipalities
8. Municipal Undertakings Under The Environment Assessment Act
9. Special Purpose Boards and Commissions
10. Motorized Off-Highway Vehicles
11. Foster Care
12. Public Libraries in the 1980's
13. Development of Treatment and/or Disposal Sites for Liquid Wastes and Hazardous Wastes
14. Group Homes
15. Conservation Authorities
16. Perpetual Care for Waste Management Facilities
17. Discussion Paper on Bill 74--An Act To Establish A Code Of Procedure for Provincial Offences
18. Occupier's Liability and Trespass To Property
19. Toward Property Tax Reform
20. The Draft Planning Act (Out-of-Print)
21. Child Welfare in Ontario: Past, Present and Future
22. The Parks Assistance Act
23. The Handling and Transportation of Dangerous Goods
24. Housing Rehabilitation Programs in Ontario
25. Residential Conversions in Ontario
26. Shelter Allowances
27. The Cemeteries Act
28. Proposed Policies: Coordinated Program Strategy for the Ministry of Natural Resources in Southern Ontario
29. Ontario Budget 1980: Implications for the Municipal Sector
30. Mortgage Interest Rates
31. Supplement to AMO's Response to the Draft Planning Act
32. Parkland Conveyance Standards
33. Boarding and Lodging Homes and Domiciliary Care Hostels
34. The General Welfare Assistance Act: Administration Costs
35. Social and Economic Criteria Used in Ontario Hydro's Site Selection Process
36. Equalization Factors and Apportionment in 1981
37. Flood Plain Management Policies
38. Provincial Roads Grants: Administrative Procedures
39. Public Swimming Pools--Ontario Regulation 792/77
40. Compulsory and Binding Arbitration
41. Capital Funding for Cultural and Recreational Facilities
42. Mineral Aggregate Resource Policy
43. Planning Guidelines for Group Homes
44. Recreational Second Home Areas

45. 1981 Guidelines for Municipal Bargaining
46. Municipal Boundary and Related Disputes
47. Public Housing in Ontario
48. The Ontario Heritage Act
49. Municipal Perspective on Housing Programs in the 1980's
50. Debt Management Powers and Practices for Ontario Municipalities
51. Submission to the Parliamentary Task Force on Federal-Provincial Fiscal Arrangements
52. Municipal Lot Levies
53. Provincial Incentives for Source Separation
54. Provincial-Municipal Funding for Children's Services
55. Assessment and Taxation of Farms and Managed Forests
56. The Future Role of Rail
57. Ontario Public Libraries Program Review
58. Recreation, Sport, and Fitness: A Response to the Fisher Report
59. Protection of Human Rights in Ontario: Employer-Employee Relations
60. 1982 Guidelines for Municipal Bargaining
61. Response to the Discussion Paper -- Continuing Education: The Third System
62. Housing Services for the Psychiatrically Impaired
63. Response to the Proposed Emergency Planning Legislation
64. Transportation of Dangerous Goods

82-1 Adult Residential Facilities
82-2 Response to Bill 159 - An Act to Revise the Planning Act
Appendix to "AMO Reports 82-2": Clause by Clause Review of Bill 159 - An Act to Revise the Planning Act ($4.00)
82-3 Property Taxation of Farms and Managed Forests
82-4 Response to the Provincial Discussion Paper on Wetland Policy
82-5 Provincial-Municipal Grants for Children's Services
82-6 Municipal Lot Levies: An Update
82-7 Rent Review in Ontario
82-8 Report of the Section 86 Working Group
82-9 Report on Amendments to the Police Act
82-10 Bill 115 - An Act to Amend the Retail Sales Tax Act
82-11 Bill 11 - An Act to Provide for the Licensing of Businesses by Municipalities
82-12 Report on Amendments to the Fire Departments Act
82-13 Response to Bill 138 - An Act Respecting the Protection of the Health of the Public
82-14 Response to the Housing Initiatives Contained in the 1982 Ontario Budget
82-15 Foster Care: Proposed Standards and Guidelines for Agencies Placing Children
82-16 Bill C-61 - The Young Offenders Act: Implications for Municipalities
82-17 Report on Procedures with Respect to the Election of the Warden of a County Government
82-18 Canadian Shield Disposal Sites and Nuclear Fuel Waste Management
82-19 Response to Residential Renovation - Proposed Part XI of the Building Code
82-20 Response to Bill 159 - An Act to Revise the Planning Act - as revised by the General Government Committee of the Legislature
82-21 Response to the Draft Guidelines for the Development of Policies on Community Improvement
82-22 Bill 179 - An Act Respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province

83-1 Response of the Association of Municipalities of Ontario to the 1983 Provincial Transfer Payment Announcement

83-2 Affordable Housing - An Overview

Copies of all the reports in this series are available at $2.50 each, (except as noted) for postage and handling, prepaid, from: Publications Centre, Association of Municipalities of Ontario, 100 University Avenue, Suite 902, Toronto, Ontario, M5J 1V6. Please make cheques payable to the Association of Municipalities of Ontario.